

PENSIONS: House Bills 97 and 98, relating to blind
BLIND PENSIONS: pensions, do not conflict with the Federal
SOCIAL SECURITY: Social Security Act.

66th General Assembly

March 5, 1951

Mr. Proctor N. Carter, Director
Division of Welfare
Department of Public Health & Welfare
Jefferson City, Missouri

3-6-51
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Dear Sir:

This will acknowledge receipt of your request for an official opinion which reads:

"House Bill 98, introduced by Representatives Houtchens, Wallace and Snyder, provides for aid to the needy blind and was introduced for the purpose of establishing a federal-state program of aid to blind persons who would qualify under the provisions of the bill.

"I would appreciate your reviewing House Bill 98 and receiving an opinion from you as to whether or not this bill conforms with the federal law relative to requirements of state plans for aid to the blind, Title X, Federal Social Security Act, as amended by the 1950 amendments."

Your request is upon a matter which ultimately must come before the Federal Social Security Board for consideration and receive said Board's approval or rejection for Federal aid for blind to the State of Missouri.

As we understand your request, the State of Missouri has never heretofore received any Federal participation in the payment of blind pensions under our present state law providing for pensions to the blind. However, there now has been introduced in the 66th General Assembly House Bill No. 98, providing for aid to the blind which is an entire new law not specifically repealing any law of this state now in full force and effect.

Presently there is no state plan drafted for aid to the blind, but you desire to know if the Federal Social Security

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Act conflicts with House Bill No. 98 pending before the General Assembly and Chapter 209, RSMo 1949, which chapter grants blind pensions to qualified persons in this state, so as to prevent the Social Security Board from participating in payment of aid to the blind persons qualified to receive same in this state.

While we will have in this state, assuming that House Bill No. 98 is passed and approved, two laws, one dealing with payment of pensions to the blind, the other aid to the blind, both are administered by one and the same single state agency, the Division of Welfare under the Department of Public Health and Welfare, and there is no conflict whatsoever between the two laws. No person can obtain benefits under both. The present law known as Chapter 209 RSMo 1949, authorizes an outright blind pension to persons qualifying under the provisions of said chapter, which pension is not necessarily based upon need. The new proposed law, House Bill No. 98, is for aid to the blind and is based entirely upon need. Furthermore, House Bill No. 98 specifically provides that one disqualifying for aid to the blind may apply for a blind pension under Chapter 209, RSMo 1949. House Bill No. 97, which attempts to amend Chapter 209, supra, specifically provides that no person shall receive pensions for blind until first being rejected for aid to the blind. This will place everyone qualified under the aid for blind program in this state which payments the Federal government may participate in and keep them off the blind pension rolls in this state, which payments are not participated in by the Federal government. Furthermore, said bill requires the Division of Welfare to continue payments of blind pensions to persons on the roll just until the administrators have had time to determine if they are eligible under the aid for blind program.

In House Bill No. 98, supra, the General Assembly has expressly declared the legislative intent to grant pensions to the blind under Chapter 209, supra, and aid to blind is provided in House Bill No. 98 and defines the words "pensioning of deserving blind" as used in any law in Missouri to include aid to the blind. While this interpretation under the rules of construction is not conclusive, it does have some legal significance and will be given consideration in construing said provision. Also the bill provides that the payment of benefits to recipients of aid to the blind in this state shall be made monthly out of the blind pension fund in the same manner as is now provided for recipients of pension to the blind. (Section 209.090, RSMo 1949, and amendments thereto.)

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The Federal Social Security Act and amendments thereto, providing for participation in the payment of aid to the blind and pensions to the blind to various states, contain the following requirements:

Section 1202, Subchapter X, Title 42, page 648, USCA, provides for Federal participation to states for aid to the blind when said state complies with the provisions contained in Subchapter X. Section 1202, supra, requires a state plan for aid to the blind and said plan must be as follows:

1. It must be in full force and effect in the whole state.
2. There must be some financial participation by the state.
3. There must be a single state agency administering said program.
4. There must be an adequate appeal provision.
5. Personnel must be employed on merit basis.
6. The administrative agency must submit to Federal Social Security Board any reports the Board deems necessary.
7. No individual may receive aid for blind when receiving old age assistance.
8. In passing upon need, the administrative agency must take into consideration any other income and resources of the applicant.
9. As amended, requires the state law to restrict the use and disclosure of information concerning applicants and recipients solely to purposes directly connected with the administration of the act and program.
10. As amended, provides for, in determining blindness, an examination by a physician skilled in diseases of the eye or by an optometrist.
11. As amended, as of July 1, 1951, all persons wishing to apply for aid to the blind may be afforded an opportunity to do so.
12. As amended, provides that as of July 1, 1953, if the plan includes the payment to individuals in private or public

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institutions that the Federal Social Security Board must approve said plan; and furthermore, that said plan must not disqualify persons as to residence and citizenship qualifications similar to those shown under Section 10, subsection (b)(1)(3).

House Bill No. 98 complies with all of the foregoing conditions and even goes further in some instances.

Under Section 1204 of the same Subchapter X, Social Security Act, it provides that the Federal Social Security Board may approve and then reject aid at any time thereafter it determines the state does not fully comply with all Federal laws and regulations dealing with aid to the blind.

We do not have for examination all the rules and regulations promulgated and adopted by the Federal Social Security Board, so we will be unable to pass upon any possible conflict between such rules and regulations and laws of the State of Missouri. However, such rules and regulations cannot go beyond the provisions of the Federal Social Security Act. Certainly if there is no conflict between the Federal and state act, no regulation of said Board should in any manner conflict with the state law relative to pensions and aid to the blind.

Section 1202(a) of Subchapter X, Title 42, USCA, as amended, provides for approval of state plan for aid to the blind for those states that did not on January 1, 1949, have such a plan, even though the state has not fully complied with the provisions of Clause (8) of Section 1202(a) of said Title.

Section 1203 of the same chapter and title as amended provides for quarterly payments to the state after certification has been made to the Secretary of the Treasury that the state has an approved plan for aid to the blind.

Section 1206, same subchapter and title, defines "aid to blind" for the purpose of said subchapter as money payments to or medical care in behalf of any type of remedial care, recognized under the state law in behalf of blind individuals who are needy, with certain exceptions contained therein.

As shown hereinabove, we have carefully examined the Federal statutes dealing with this subject and it appears that the proposed legislation in this state, namely House Bill No. 97 and House Bill No. 98, and our statutes now in full force

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and effect, granting pensions to blind persons, fully complies with every requirement contained in the Federal statutes and amendments thereto for Federal participation in payments to the state for blind persons. While we have in fact a blind pension law in this state that the Federal government does not participate in any payments made thereunder, and no attempt is being made for such participation, if House Bill No. 98 is passed by the General Assembly and approved by the Governor, we will have in this state a law for aid to the blind in which the Federal Social Security Board may participate in the payments thereunder, there being no conflict between the two acts; and we are unable to see wherein the Federal Social Security Board, under the Federal Social Security Act hereinabove referred to, is in any manner prevented from approving a state plan for the payment of aid to the blind as contained in House Bill No. 98, pending before the 66th General Assembly of the State of Missouri.

CONCLUSION

Therefore, it is the opinion of this department that there is no conflict between Sections 1201 to 1206, inclusive, of Subchapter X, Title 42, USCA, of the Federal Social Security Act, as amended, and Chapter 209, RSMo 1949, House Bills Nos. 97 and 98, which bills await the approval or rejection of the 66th General Assembly of the State of Missouri; that under the foregoing laws and pending legislation, the Federal Social Security Board may, if it so desires, approve a state plan following the provisions of said laws and bills and thereby participate with the State of Missouri in payments made thereunder.

Respectfully submitted,

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Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

ARH:VLM